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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/742,892	12/23/2003	Jack Layfield	T8467998US	7096
46127	7590	01/20/2006	EXAMINER	
HEENAN BLAIKIE LLP P. O. BOX 185, SUITE 2600, 200 BAY STREET SOUTH TOWER, ROYAL BANK PLAZA TORONTO, ON M5J 2J4 CANADA			PHILLIPS, CHARLES E	
			ART UNIT	PAPER NUMBER
			3751	

DATE MAILED: 01/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/742,892	Applicant(s) LAYFIELD ET AL.	
	Examiner Charles E. Phillips	Art Unit 3751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-46 is/are pending in the application.
- 4a) Of the above claim(s) 1-10 and 23-46 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-13 and 21 is/are rejected.
- 7) ☒ Claim(s) 14-20 and 22 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 11-13 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Price.

The term “spa” sets forth no structure not shown here. Fig 1 shows the bottom 14 and side 31 with a support member 45 “integrally molded” due to the pouring of concrete.

Re: claims 12-13, the rim is seen at 51 which 8 is integrally moulded with 47 and the side wall 31. Re: claim 25, the concrete nature of the bottom and side meets this claim.

Claims 14-20 and 22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.


Claims 1-10 and 23-46 stand withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected inventions, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 12/6/05.

The traverse is noted, but is not convincing. Reasons were given for the independence of the various groups and no rebuttal of the reasons is found. The reasons given in lines 13-15 of page 2 of the response are not understood. Clarification is required for further consideration. This requirement is made final.

Art Unit: 3751

Any inquiry concerning this communication should be directed to Charles E.

Phillips at telephone number 571-272-4893.


Charles E. Phillips
Primary Examiner